

The Hon. John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

NO. CR22-036-JCC

Plaintiff,

[PROPOSED]

JOSEPH JOHNSON,

PRELIMINARY ORDER OF FORFEITURE

Defendant.

THIS MATTER comes before the Court on the United States' Motion for a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Joseph Johnson's interest in a Polymer80 handgun, seized from Defendant on March 2, 2022, and any associated ammunition ("Subject Property").

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate because:

- The Subject Property is forfeitable pursuant to 21 U.S.C. § 853, as it is property used or intended to be used to commit or facilitate the commission of *Possession of a Controlled Substance with Intent to Distribute*, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C); and,

- 1 • In the Plea Agreement he entered on February 7, 2023, Defendant agreed to
2 forfeit the Subject Property pursuant to 21 U.S.C. § 853, Dkt. No. 33
3 ¶¶ 13-14.

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5 NOW, THEREFORE, THE COURT ORDERS:

6 1) Pursuant to 21 U.S.C. § 853 and his Plea Agreement, Defendant's interest
7 in the Subject Property is fully and finally forfeited, in its entirety, to the United States;

8 2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
9 be final as to Defendant at the time he is sentenced, it will be made part of the sentence,
10 and it will be included in the judgment;

11 3) The United States Department of Justice, Drug Enforcement
12 Administration, and/or its authorized agents or representatives ("DEA") shall maintain
13 the Subject Property in its custody and control until further order of this Court;

14 4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
15 United States shall publish notice of this Preliminary Order and its intent to dispose of the
16 Subject Property as permitted by governing law. The notice shall be posted on an official
17 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
18 any person known to have alleged an interest in the Subject Property, the United States
19 shall, to the extent possible, provide direct written notice to that person. The notice shall
20 state that any person, other than the Defendant, who has or claims a legal interest in the
21 Subject Property must file a petition with the Court within sixty (60) days of the first day
22 of publication of the notice (which is thirty (30) days from the last day of publication), or
23 within thirty (30) days of receipt of direct written notice, whichever is earlier. The notice
24 shall advise all interested persons that the petition:

- 25 a. shall be for a hearing to adjudicate the validity of the petitioner's
26 alleged interest in the Subject Property;
27 b. shall be signed by the petitioner under penalty of perjury; and,

1 c. shall set forth the nature and extent of the petitioner's right, title, or
2 interest in the Subject Property, as well as any facts supporting the
3 petitioner's claim and the specific relief sought.

4 5) If no third-party petition is filed within the allowable time period, the
5 United States shall have clear title to the Subject Property, and this Preliminary Order
6 shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

7 6) If a third-party petition is filed, upon a showing that discovery is necessary
8 to resolve factual issues it presents, discovery may be conducted in accordance with the
9 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
10 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
11 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
12 adjudication; and,

13 7) The Court will retain jurisdiction for the purpose of enforcing this
14 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
15 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
16 Fed. R. Crim. P. 32.2(e).

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18 IT IS SO ORDERED.

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20 DATED this 16th day of May 2023.

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THE HON. JOHN C. COUGHENOUR
UNITED STATES DISTRICT JUDGE

1 Presented by:

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